

Arizona Commission on Access to Justice
MINUTES
Wednesday, October 15, 2014
10:00 a.m. to 2:00 p.m.
State Courts Building, 1501 W. Washington Street
Phoenix, AZ 85007

Present: Judge Lawrence Winthrop, Chair; Judge Dean Fink (proxy for Judge Janet Barton); Dave Byers (proxy for Mike Baumstark); Kip Anderson; Judge Thomas Berning; Millie Cisneros; Judge Marie Elena Cruz; Barb Dawson; Michael Jeanes; Ellen Katz; John Phelps; Janet Regner; Kevin Ruegg; Steve Seleznow; Judge Rachel Torres Carrillo; Anthony Young

Telephonic: No one appeared telephonically

Absent/Excused: Judge James Marner; Lisa Urias

Presenters/Guests: Vice Chief Justice John Pelander; Bonnie Rose Hough; Stacey Butler; Pat Gerrich; Judge Mark Moran; Steven Keist; Kelly McCullough; Jeff Fine; Janet Fisher; Andrea Gutierrez; Todd Lang; Chris Groninger; Lara Slifko

Administrative Office of the Courts (AOC): Marcus Reinkensmeyer; Heather Murphy; Paul Julien

AOC Staff: Theresa Barrett, Julie Graber; Nick Olm; Kathy Sekardi.

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, the October 15, 2014, meeting of the Arizona Commission on Access to Justice (ACAJ) was called to order by the Chair, Judge Lawrence Winthrop, at 10:12 a.m.

Vice Chief Justice John Pelander made opening remarks to members of the commission, guests and staff. Justice Pelander noted a widening justice gap in this country, especially in Arizona. He discussed the new five-year strategic agenda adopted by the Supreme Court, wherein the goal of achieving access to justice has risen to the number one goal.

Judge Winthrop informed the members that this commission is subject to the public meeting code requirements. He referred the members to a page of proposed rules for conducting this commission's business that were included in the meeting packet. These rules establish policies for a quorum, decision-making, and proxies.

The members unanimously agreed to adopt the proposed rules as presented.

Ms. Graber and Ms. Sekardi provided an overview of the physical briefing binder, the digital version of the briefing binder, and the commission's website. Mr. Olm briefed the commission members on emergency building evacuation measures.

II. BUSINESS ITEMS

A. Review of Administrative Order 2014-83

Judge Winthrop provided an introduction and overview of poverty and legal aid issues in this state and reviewed the administrative order, which established the Commission on Access to Justice and outlined the purpose of the commission.

Judge Winthrop noted:

- Arizona's poverty level has risen for the third year in a row, with 20.2 percent of Arizonans living below the poverty level.
- Some statistics indicate that half of the people who even know how to seek out legal assistance are turned away.
- In Arizona's family courts, over 80 percent of cases have one or both parties self-represented.
- Generally, there are no lawyers or other types of advocates to assist our indigent population relative to housing issues, particularly eviction matters.
- Chief Justice Bales has mandated this commission to look at discrete issues and to make recommendations for comprehensive assistance to self-represented litigants, in family court and in limited jurisdiction courts.
- The Supreme Court is interested in recommendations to encourage and enhance how lawyers volunteer their services to the indigent population.
- The commission will also look at how to enhance the funding of legal services, such as promoting the availability of the state tax credit for donations to qualifying non-profit groups that provide legal assistance to the working poor.

B. Overview of Access to Justice Initiatives: A National Perspective

Bonnie Rose Hough, Managing Attorney of the Judicial Council of California (JCC), appeared by teleconference to present an overview of California's access to justice initiatives that pertain to servicing self-represented litigants in the courts.

Ms. Hough informed the commission that California employs a variety of solutions that have developed into a continuum of services for poor and middle income self-represented litigants.

The California Access to Justice Commission focused on case resolution for self-represented litigants. The Self-Represented Litigant Task Force found:

- Providing self-help services is in everyone's best interests. It is the "Unity of Interest" between the public and the courts.
- Self-represented litigants need more than the information that is merely contained in self-help packets.
- Self-represented litigants need more assistance with filling out forms and understanding court procedures.

- Self-represented litigants need services throughout the entire case and not just at the onset of a case.
- In order to provide services to self-represented litigants, California courts partnered with legal services organizations, libraries and schools to provide comprehensive services.

Self-Help Centers

- The self-help attorneys within the courts provide self-represented litigants a high level of quality work and understanding of legal issues.
- Research shows that the self-help center and other legal services for self-represented litigants were highly effective: the self-represented litigants were satisfied; more self-represented litigants were able to start and finish an entire case; and judges were satisfied because of the resulting efficiencies to their calendars.

Ms. Hough presented solutions and best practices for providing self-help and other legal services to self-represented litigants:

Self-help kiosks

Ms. Hough noted it is important that the kiosks are staffed otherwise self-represented litigants will not use this service. She stated self-represented litigants need personal contact, recognition, need to be shown how to use a computer and need to be able to have questions answered from a person working at the kiosk. California, through the JusticeCorps program, used 300 college students to assist with these types of services.

Assistance in rural communities

Nationally, the current trend is to provide telephone and email assistance to self-represented litigants in rural areas; but more recently, there has been a move to use the internet (i.e. email and “live chat”) rather than the telephone. Ms. Hough related that self-help websites have proved to be extremely helpful to litigants, as they can be easily expanded, they can provide necessary bilingual services, and they can effectively focus on the issue or process the litigant wants more information about.

Families Change website

California uses this website to provide a three-hour online parenting class for parents. The website also hosts videos that help the public to navigate small claims court.

Simplification and translation of rules and forms

California received funding to translate certain forms for SRLs who are not fluent in English. California worked to make it simple for SRLs to complete domestic violence forms. These forms were shortened, the legal jargon was eliminated and the language is written in a short and concise manner.

Law Help Interactive

Ms. Hough explained the Law Help Interactive tool used in the Los Angeles County courts that significantly reduce the amount of time needed to fill out self-help forms. She explained the program is like the Turbo Tax program for completing your tax return forms

but this program helps develop and simplify forms and processes for SRLs. This program helps cut down fill out time significantly. Because of tools like this one, only two full-time attorneys are needed in Los Angeles County, a population of 10 million, for self-help forms.

SRL Calendars

Ms. Hough reported that some California courts have self-represented dockets, meaning only cases involving self-represented litigants are placed on the same calendar, on the same day. This type of calendar places necessary resources into that courtroom for maximum efficiency and effectiveness. Self-help representatives, mediation, legal aid, and relevant social services are all present, working together to resolve cases. Ms. Hough explained the model works well for family law and housing issues and is an opportunity for attorneys to obtain pro bono work.

Case management

California makes use of automated check points, which can be built into case management systems. This system ensures that email, text messages or paper mail reminders are sent to litigants who have not completed all the steps to resolve their case fully.

Judicial and judicial staff education

Ms. Hough stated the need for extensive judicial curriculum, specialized bench guides, and online resources that can all be incorporated into new judge orientation. She reports that judicial staff also need education on legal information as opposed to legal advice; on-going information and changes in the law; conferences and webinars for self-help providers.

Facilities

Ms. Hough indicated that research shows self-help centers and services are more effective than off-site; however, outreach locations are also very helpful.

Fiscal impact

California expanded funding in order to provide for more services. JusticeCorps and other grants are great opportunities to expand self-help services at minimal cost. Ms. Hough reported that cost benefit studies have shown savings to the courts for providing self-help centers and services.

The chair opened the floor to questions for Ms. Hough (not verbatim):

- *How are the in-person self-help programs managed locally through support of the JCC and are the different counties allowed to tailor their program to their specific needs?*
 - Ms. Hough responded by saying that the JCC has general guidelines for the counties to follow but the Judicial Council keeps in mind that there are going to be different services provided between counties. Technology can be used on a centralized basis in terms of forms development and each county can insert specific information into these forms. Listservs are another way that people share information with each other about what programs are working in their counties.

- *How has California promoted the availability of these services to the constituencies that needed these services?*
 - Ms. Hough indicated that the JCC responded to the numbers and knew beforehand where help was most needed. JCC reached out to community agencies who in turn reached out to those in need of services. Because many self-represented litigants were already going the court, the JCC gave information to the clerk's office and court staff so they could inform self-represented litigants where assistance is provided. The JCC website was promoted initially, and now the website appears often through Google searches related to legal matters in California.

- *Local rules that can be hard to overcome with regards to forms. How did California overcome that challenge?*
 - Ms. Hough responded by saying that it was difficult for lawyers to practice in different jurisdictions due to different local rules. Being the third branch of government, the JCC knew it needed to have more of a statewide presence to get to standardization, which it accomplished through the leadership of the JCC and the Chief Justice despite contention from jurisdictions. Additionally, there was a California Supreme Court case regarding a local court who had local rules that made it impossible for self-represented litigants to try their own case. The Supreme Court opined that family law litigants have the same right as everyone else to assistance and there should be statewide rules of court that address this issue.

- *How are self-help centers able to sort out domestic violence and high conflict cases and refer those clients to appropriate resources?*
 - In terms of triage and assessment of cases, 90% of those in domestic violence cases know how to fill out forms in preparation for court and judges are trained to handle domestic violence cases. This saves pro bono attorneys for more complicated cases. Self-help centers also help respondents in orders of protection and domestic violence cases and refer parties to specific treatment programs if necessary.

A few general comments were made reminding the commission that:

- Court funding in California is based on a centralized state-funded court system; whereas Arizona has a decentralized, non-state funded court system as the trial courts are funded by their respective County Board of Supervisors. This makes it difficult to fund certain needs for the courts in different counties.
- Access to justice should not be limited to only indigent defense, rather the courts and the commission need to be cognizant of the legal needs of the middle class and not just the low-income class.

C. AmeriCorps Grant opportunity in Maricopa County

Maricopa County Superior Court Judge, Dean Fink, presented the JusticeCorps program, how it operates in California, and the Arizona pilot program.

Maricopa County is pursuing a grant opportunity from AmeriCorp's JusticeCorps program. Prior to pursuing the AmeriCorp's grant, Maricopa County received a grant from the National Center for State Courts to pay for one judicial officer to travel to California and observe how the JusticeCorps program works. Judge Fink traveled to Los Angeles and visited self-help centers and spoke with JusticeCorps staff.

California's program is administered in the Bay Area, Los Angeles, and San Diego and the program is involved with various universities in each of the regions to recruit and retain members. Currently, California's funding levels provide for 263 members and 24 full-time fellows.

Arizona's AmeriCorp funding is controlled by the Arizona Governor's Commission on Service and Volunteerism. The submission of a grant application for the JusticeCorps program by Maricopa County Superior Court is in the works.

Judge Fink anticipates a few challenges administering this program:

- Matching funds or in kind matches of 50% are required.
- Future funding and shifting of funding sources will need to be ascertained.
- Initial startup will need to include recruitment and training of members, and proper infrastructure to support them.

Judge Fink declared the next steps for Arizona are to determine the biggest needs, develop other non-academic partners and obtain letters of support for Maricopa's grant application. As far as rural counties and expansion of the program, engaging assistance from community colleges and public libraries can prove to be beneficial.

Members expressed a concern with the overall culture of the courts as self-represented litigants feel intimidated when they seek help at the courthouse. The experience of interacting with the court has to be addressed, such as an employee that is fearful of providing information that could be deemed legal advice, so they offer little to no beneficial service. Members discussed self-help centers outside of court buildings in order to eliminate the intimidation factor and to make the self-represented litigants feel more welcomed. More discussion included the observations that there are self-help centers at some public libraries; however, self-help centers located outside the courthouse may not be as effective as the centers located inside the courthouse.

III. OTHER BUSINESS

A. Work groups

Judge Winthrop informed the committee of their respective workgroups and informed members that each individual workgroup's information can be found on the commission's website.

B. Charitable Tax Event

Judge Winthrop provided a brief overview of the October 9, 2014 Advancing Justice Together Charitable Tax Event and played the Working Poor Tax Credit video from the Arizona Legal Foundation.

C. Good of the Order/Call to the Public

None present.

D. Adjournment

Meeting adjourned at 2:05 p.m.

E. Next Commission Meeting Date

Wednesday, February 4, 2015

10:00 a.m. to 2:00 p.m.

State Courts Building

Conference Room 119A/B

1501 W. Washington

Phoenix, Arizona 85007